HIGH COURT OF UTTARANCHAL AT NAINITAL

First Appeal No. 890 of 23001
(Old No. 249 of 1982)

The Collector, Dehradun. .....Appellant.

Vs.

Smt. Sarla Devi W/o Sri Kanhaya Lal
R/o Mukand Bhavan, Tilak Road,
Dehradun

..... Respondent

Sri Nand Prasad learned counsel for the appellant.

Dated:- 26-6-2006

Hon'ble B.S. Verma, J.

Heard Sri Nand Prasad learned counsel for the appellant.

This appeal has been preferred against the Judgment and award dated 31-7-1980, passed by the then District Judge, Dehradun in L.A. Case No. 13 of 1980 Smt. Sarla Devi Vs. Collector, Dehradun whereby the learned Judge has decided five references, under Section 18 of the Land Acquisition Act (**for short the Act**) namely, L.A. Case No. 11 of 1980, 12 of 1980, 13 of 1980, 14 of 1980 and 15 of 1980 by a common judgment and the Reference Court enhanced the compensation from Rs. 2,35,747.32 to Rs. 3,28,900/- with interest 6% per annum from 7-5-1977. It was further directed by the Reference Court that be the amount awarded, the parties shall bet the amount in proportion of their share specified in the body of the judgment with proportionate costs.

It may be mentioned that the State/Collector, Dehradun preferred an appeal (F.A. No. 899 of 2001) Collector Vs. Bhav Harihar Lal, against the said award passed by the District Judge relating to L.A. Case No. 15 of 1980, which has been decided by this Court on 27-2-2006 thereby the appeal preferred by the Collector Dehradun was dismissed on merit and the First Appeal has also been decided on 22-4-2006.

Brief fact relevant for disposal of this appeal are that land measuring 4.237 acres situated in village Kanwali, District Dehradun was acquired for

construction of houses, which comprises of Khasra Nos. 66, 67, 68, 69 and 70. Notification under Section 4 of the Act was issued on 11.12.1976 followed by Notification under Section 6 published on 29-1-1977. Possession over the acquired land was taken on 7.5.1977. Ultimately, the Special Land Acquisition Officer (***S.L.A.O.***) determined the market value of the land @ Rs. 72,860/- per acre and deducted 25% towards largeness of area as well as deduction @ 15% was also made towards depreciation in the land. ***SLAO*** also awarded solatium @ 15% and interest from 7.5.1977 to 5.8.1978. Accordingly total compensation of Rs. 2,35,747.32 to be paid to the land owners.

Aggrieved by the award passed by the *S.L.A.O.*, application under Section 18 of the Act was preferred before the Collector, which was referred to the District Judge for adjudication of the proper market value.

It was alleged by the claimants that the S.L.A.O. has not assessed the market value of the acquired land correctly and the award passed by him is adequate. The State filed written statement before the Reference Court and stated that the S.L.A.O. has considered all relevant exemplars before determining the market value of the property under acquisition. It was also pleaded that the acquired land was not levelled and State was bound to bear costs towards development of land and that the entire land was not fit for purposes of residences.

Learned District Judge framed necessary issues in the case and after considering the evidence led by the parties, the Reference Court came to the conclusion that the land acquired is within the municipal limits of Dehradun and it adjoins residential localities including the posh locality of Yamuna Colony inhabited by high class Engineers. It was also held that the land was suitable for building residences. The Reference Court was of the view that though the entire acquired land was not levelled throughout, the it required leveling at some place for which huge investment was not required. It was also held that the allegation of the State that there is a flow of river through this land was not correct and that the total land in question cannot be said to have lost its utility for the purposes of building purposes.

In this appeal, it has been contended that the judgment and award passed by the Reference Court suffers from infirmities and the market value assessed by the reference court is not based on proper appraisal of evidence on the point.

In the course of arguments, it has been fairly conceded by the learned counsel for the parties that this Court has already decided the controversy involved in this case while deciding First Appeal No. 899 of 2001, which had arisen form the same award of the S.L.A.O. and was preferred against the same judgment and award of the Reference Court dated 31-7-1981. It has also been conceded that the facts of the instant appeals are squarely covered by the decision of this Court dated 27-2-2006. It has been submitted that these appeal be also decided in the light of the said judgment.

I have gone through the judgment-dated 27.2.2006 passed in Appeal No. 899 of 2001, Collector Dehradun Vs. Bhav Harihar Lal. The District Judge has also observed that all the claimants of the five references belonged to the same family. The land acquired is the same. This Court while deciding F.A. No. 899 of 2001 arising out of Land Acquisition Reference No. 15 of 1980 by common judgment of the District Judge has already considered all the aspect of the controversy involved in the present appeal. Having considered the facts and circumstances of the case, I find myself in full agreement with the view taken by this Court in the said appeal, which was dismissed on merit. It will be in the fitness of things to dismiss the present appeals on merit in terms of judgment of this Court passed in F.A. No. 899 of 2001 Collector Dehradun Vs. Bhav Harihar Lal.

Accordingly the present appeal is dismissed on merit in view of the judgment passed in F.A. No. 899 of 2001, dated 27-2-2006. No order as to costs.

(B.S. Verma, J.)

Dated:- 26-6-2006
M.K.